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### **REMARKS**

After the foregoing amendment, claims 2-5 and 7-12 are pending in the application.

Applicants respectfully requests additional consideration and review of the claims in view of the foregoing amendment and the following remarks.

### **Allowed Claims**

Applicants appreciate the Examiner's allowance of claims 3-5 and 11. Also, Applicants appreciate the Examiner's indication that claims 2 and 7-9 would be allowable if rewritten in independent form including all limitations of the respective base and intervening claims.

Applicants have rewritten claims 2 and 7-8 in independent form to include all limitations of the respective base claims. Claim 9 now depends from amended claim 8.

Claims 3- 5, and 9-11 have been amended to replace the word "provide" with either "determine" or "generate". These amendments more clearly and particularly point out that which Applicants regard as the invention and improve the claims' form generally. It is submitted that the amendments made do not broaden or narrow the scope of the claimed subject matter in any way.

### **Rejections Under 35 U.S.C. § 102(b)**

Applicants have canceled claims 1 and 6.

Claim 10 was rejected under 35 U.S.C. §102(b) as being unpatentable over U.S. patent number 5,710,784 issued to Kindred on January 20, 1998. Applicants respectfully traverse this rejection.

The Kindred reference discloses a Viterbi decoder for recovering the original bit data stream that was convolutionally encoded as a code system stream in a CDMA mobile communications system. However, there are significant differences between Applicants' claim 10 and Kindred.

First, Applicants' claim 10 recites, "wherein the processor uses a Yamamoto-Itoh (YI) metric value as an index into the look-up table to retrieve an

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associated Bit-Error-Rate (BER) for a received signal". Kindred does not teach this limitation.

Instead, Kindred teaches that the Yamamoto Quality Metric (YQM) bit is a label that indicates that the difference between the two incoming state metrics is more or less than a selected quality threshold (QT) value. If this difference is greater than the QT value, the YQM bit is set to the YQM from the previous state. If this difference is less than the selected QT value, then the YQM bit of the new state is set to "bad" or "1". At the beginning of the decoding operation of any rate hypothesis, the zero Viterbi trellis state is labeled with "good" YQM bits ("0"s) and all other trellis states are labeled with "bad" YQM bits. At the end of the decoding procedure of the rate hypothesis, the frame is labeled either "good" or "bad" according to the YQM bit for the final zero state, which is stored in register 93 and output from ACS logic 106, as stated in column 17, lines 3-15.

In essence, Kindred uses the YI metric as a label in describing "good" or "bad" frames, which is not an index as recited Applicants' claim 10. As known by those skilled in the art, an index is a pointer into a table or a list that is employed to retrieve information therefrom. In contrast, a label is a descriptive term or an item used to characterize something. Therefore Kindred does not use the Yamamoto-Itoh (YI) metric value as an index into the look-up table as recited in Applicants' claim 10.

Second, Kindred does not retrieve a Bit-Error-Rate associated with the YI metric from a look-up table, as recited in Applicants' claim 10. These distinctions are sufficient to distinguish Applicants' claim 10 from Kindred.

In view of the foregoing, Applicants submit that Kindred does not describe each and every element of claim 10, either expressly or inherently, and therefore claim 10 is not anticipated by Kindred. Applicants respectfully request that the rejection under 35 U.S.C §102(b) be withdrawn.

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New Claim

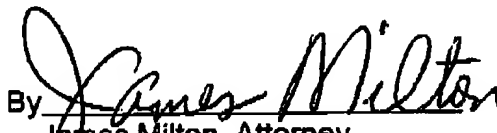
New claim 12 has been added. Claim 12 includes limitations directed to the above-described distinguishing aspects of the invention and is submitted to be patentable for the reasons stated hereinabove.

Conclusion

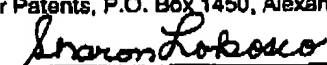
In view of the foregoing amendments and remarks, Applicants submit that claims 2-5 and 7-12 are in condition for allowance, and reconsideration is therefore respectfully requested. If there are any outstanding issues that the Examiner feels may be resolved by way of a telephone conference, the Examiner is invited to contact the undersigned to resolve the issues.

Respectfully submitted,

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Sharon L. Lobosco Date 9/13/04